

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE

KARL C. STOMBERG,

VS.

CALVIN BRAUN,

Defendant.

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CIVIL ACTION NO. H-13-189

ORDER

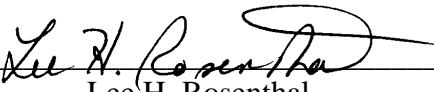
Federal Rule of Bankruptcy Procedure 8006 requires that within 14 days after filing the notice of appeal, entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant must file with the clerk and serve on the appellee, a designation of the items to be included in the record on appeal and a statement of issues to be presented. Fed. R. Bankr. P. 8006. “[T]he purpose of the record designation requirement is to provide the reviewing court with an adequate basis for evaluating the appellant's claims on appeal.” *In re CPDC INC.*, 221 F.3d 693, 698 (5th Cir.2000) (citation omitted). The appellant carries the burden of creating an adequate record and may not urge an issue on appeal if he has failed to provide the appellate court with the requisite record excerpts. *Id.* (citations omitted).

In this case, the appellant, Calvin Braun, filed a notice of appeal on January 24, 2013. Nothing has been filed in this court since then. Federal Rule of Bankruptcy Procedure 8001(a) states that “[a]n appellant’s failure to take any step other than timely filing a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the district court or bankruptcy

appellate panel deems appropriate which may include dismissal of the appeal.” Fed. R. Bankr. P. 8001(a). Dismissal is not justified in the absence of evidence of prejudice or obstinately dilatory conduct and when the purpose of Rule 8006 has been satisfied. *Id.* at 701.

The record provides no basis for finding that the purpose of Rule 8006 has been satisfied. No later than **April 19, 2013**, Braun must file a statement showing cause why this appeal should not be dismissed for failure to take any step besides filing the notice of appeal.

SIGNED on April 1, 2013, at Houston, Texas.



Lee H. Rosenthal
United States District Judge